IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 08-06-2007

CORAM:

THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

WRIT PETITION NO.9744 of 2000

K.Loganathan .. Petitioner

Versus

1.The Managing Director
Food Corporation of India
Baral Chamba Lane
Head Quarters
New Delhi
2.The Zonal Manager (South)
Food Corporation of India
2, Haddows Road, Zonal Office
Chennai - 600 006
3.The Senior Manager
Food Corporation of India
5/54, Greams Road
Regional Office
Chennai - 600 006
4.The District Manager
Food Corporation of India
District Office
Cuddalore
5.The Assistant Manager (Depot)
Food Corporation of India
Tiruvandar Koil
Karaikkal Taluk
Pondicherry District. .. Respondents

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For Petitioner :: Mr.K.Jayaraman

For Respondents :: Mr.A.S.Thambuswamy

Prayer: Writ Petition is filed under Article 226 of The Constitution of India for the relief of issuance of a writ of certiorarified mandamus to call for the entire records relating to the impugned order passed by the fourth respondent by his order in Ref.NO.HK/3/3/99-2000 dated 24.4.2000 and quash the same and consequently direct the respondents to reinstate the petitioner in service with continuity of service with all other attendant monetary benefits.

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ORDER

In this writ petition, the petitioner challenges the order of the fourth respondent dated 24.4.2000 under which the fourth respondent has retrenched the services of the petitioner along with some other employees.

2. A reference to the impugned order shows that the petitioner was employed under the Food Corporation of India as part time sweeper/scavenger on daily rated basis. According to the petitioner, the petitioner has been employed in the said category for the past nineteen years. The impugned order states that the services of the petitioner as a part time sweeper/scavenger is not required from 25.4.2000 by further stating that the petitioner would be paid retrenchment compensation as per rules.

3. Even though the respondents have filed a counter affidavit in which it is stated that the petitioner was retrenched by the impugned order and all the provisions of the Industrial Disputes Act were complied with, the same is disputed by the petitioner.

4. On the face of it, it is seen that the requirement of Section 25-F of the Industrial Disputes Act has not been complied with since admittedly the impugned order is one for retrenchment and the petitioner is a workman covered under the Industrial Disputes Act. It is also brought to my notice by the learned counsel for the petitioner that in respect of a similarly situated employee by name one Tmt.Alamelu, a writ petition was filed in W.P.No.8657 of 2000. This Court while allowing the said writ petition by its order dated 18.2.2005 has set aside a similar impugned order stating that the provisions of Section 25-F has not been complied with. It is also not in dispute that the petitioner has continued in the employment of the respondents as a part time sweeper/scavenger on daily rated basis by virtue of the interim order passed in this writ petition and as on date, as admitted by the learned counsel for the respondents herein, the petitioner is continuing in the said capacity.

5. In view of the above said facts that apparently the respondents have not followed the requirement of Section 25-F of the Industrial Disputes Act, there is absolutely no difficulty to conclude that the impugned order in respect of the petitioner is not sustainable. In view of the same, leaving it open to the respondents to act in accordance with the Industrial Disputes Act and in the manner known to law, the writ petition stands allowed and the impugned order of the fourth respondent dated 24.4.2000 in so far as it relates to the petitioner stands set aside. However, there shall be no order as to costs.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

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Karaikkal Taluk
Pondicherry District.

1 cc To Mr.K.Jayaraman, Advocate, SR.33196.
1 cc To Mr.A.S.Thambuswamy, Advocate, SR.33022.

W.P.NO.9744 of 2000

NSM(CO)
RVL 14.06.2007

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